

REMARKS/ARGUMENTS

Applicants thank the Examiner for the thorough examination of the claims as evidenced in the Office Action dated April 9, 2003. Applicants respectfully request reconsideration of the rejections to the claims contained therein.

The Examiner rejected claims 1-4, 6-12, 14, 17, 18, 21 and 22 under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,112,141 to Briffe et al. Applicants respectfully traverse this rejection.

Applicants repeat and restate the arguments made in the previous responses of March 7, 2003 and September 24, 2002, which are incorporated by reference herein in relevant part.

The Examiner asserts that use of the open-ended transitional phrase "comprising" means that applicants' claims could include any equivalent limitations. However, as recited in MPEP § 2111.13, transitional phrases "define the scope of a claim with respect to what *unrecited additional components or steps, if any, are excluded* from the scope of the claim." Applicants' use of the transitional phrase "comprising" is consistent with its definition of being inclusive or open-ended and not excluding additional, unrecited elements or method steps. See, e.g., *Genentech, Inc. v. Chiron Corp.*, 112 F.3d 495, 501, 42 USPQ2d 1608, 1613 (Fed. Cir. 1997) ("Comprising" is a term of art used in claim language which means that the named elements are essential, but other elements may be added and still form a construct within the scope of the claim.); *Moleculon Research Corp. v. CBS, Inc.*, 793 F.2d 1261, 229 USPQ 805 (Fed. Cir. 1986); *In re Baxter*, 656 F.2d 679, 686, 210 USPQ 795, 803 (CCPA 1981); *Ex parte Davis*, 80 USPQ 448, 450 (Bd. App. 1948) ("comprising" leaves "the claim open for the inclusion of unspecified ingredients even in major amounts").

In the present case, applicants' recital of "a graphical user interface that returns a display shown on a display to a pre-existing display, without user input, upon a passage of time" as claimed in claim 1, 9, 14 and 21, is an element not found in Briffe. Applicants believe the Examiner is incorrect in relying on the transitional phrase "comprising" to demonstrate the applicability of an alleged equivalent disclosure in the cited art.


The Examiner has not met the prima facie case for equivalence as recognized in case law, and it is therefore not considered necessary to further rebut the asserted equivalence. It is sufficient to state that contrary to the Examiner's assertion, applicants can find no case law or controlling regulatory authority suggesting an applicant's choice of transitional phrase has any thing to do with equivalence. If the Examiner disagrees, applicants invite the Examiner to provide a reference to any such authority. A finding of equivalence for a particular claim limitation may be established regardless of the type of transitional phrase used in the claim. Merely noting the type of transitional phrase used in the claim does not establish equivalence for a claim limitation, and the Examiner's rejection of the claims should therefore be withdrawn.

Briffe does not disclose all elements of applicants' invention as claimed in applicants' claims 1, 9, 14, and 21 because it does not describe a "graphical user interface that returns a display shown on a display to a pre-existing display, without user input, upon a passage of time." In the most recent rejection, the Examiner repeats the arguments of previous rejections but has additionally referenced portions of Briffe that describe automatically displaying status and operational procedures when any failure occurs. The Examiner then asserts such automatic display of emergency screens is equivalent to applicants' claimed invention. In contrast, applicants' claimed invention describes a return to a pre-existing display, without user input, upon a passage of time. The Examiner does not demonstrate how the automatic emergency call-up of a display (as disclosed by Briffe) anticipates or is equivalent to applicants' return to a pre-existing display upon a passage of time. Indeed, applicants' claimed invention differs from such disclosure of Briffe in several ways: (a) the claimed invention may be used in situations other than emergencies; (b) the claimed invention returns to a *pre-existing display*, while Briffe calls up a *new* display; (c) the claimed invention *returns* to a pre-existing display, while Briffe *calls up* an emergency display; and (d) the claimed invention returns to a pre-existing display *after a passage of time*, while Briffe requires user input to return to a pre-existing display. The Examiner has not shown how, despite these clear differences, such a disclosure anticipates or provides an equivalent teaching to applicants' invention as claimed in independent claims 1, 9, 14 and 21. Indeed, Briffe does not anticipate or provide an equivalent teaching to applicants' invention as claimed in the independent claims, and those claims are therefore allowable. All claims depending from said

independent claims are also allowable for at least the same reasons the independent claims are allowable.

Accordingly, with the entry of this amendment and upon consideration of the remarks contained herein, all pending claims are now allowable, and a Notice of Allowance is earnestly solicited. The Examiner is requested to contact the undersigned attorney if further issues remain in the prosecution of this application.

Respectfully Submitted,


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